

EXHIBIT K

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:

BERNARD L. MADOFF INVESTMENT

Adv. Pro. No.

SECURITIES LLC,

08-01789 (BRL)

Debtor.

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IRVING H. PICARD, Trustee for the

Liquidation of Bernard L. Madoff

Investment Securities LLC,

Plaintiff,

Adv. Pro. No. _____

09-1182 (BRL)

v.

J. EZRA MERKIN, GABRIEL CAPITAL,

L.P., ARIEL FUND LTD., ASCOT

PARTNERS, L.P., GABRIEL CAPITAL

CORPORATION,

Defendants .

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VIDEOTAPED DEPOSITION of JASON L. ORCHARD, as
reported by NANCY C. BENDISH, Certified Court
Reporter, RMR, CRR and Notary Public of the States
of New York and New Jersey, at the offices of BAKER
HOSTETLER, 45 Rockefeller Plaza, New York, New York
on Tuesday, October 8, 2013, commencing at 10 a.m.

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<p>1 MR. SONG: Let me strike that.</p> <p>2 Q. Did you have an understanding as to</p> <p>3 what the investment strategies were for Ariel and</p> <p>4 Gabriel?</p> <p>5 A. Yes.</p> <p>6 Q. What were those investment</p> <p>7 strategies?</p> <p>8 A. It was a fund focused on primarily</p> <p>9 corporate credit, and within corporate credit</p> <p>10 primarily distressed and opportunistic investments.</p> <p>11 Q. Do you have an understanding as to</p> <p>12 what the investment strategy was for Ascot Partners?</p> <p>13 A. I understood Ascot to be primarily a</p> <p>14 Madoff feeder fund.</p> <p>15 Q. And what about Ascot Fund; what was</p> <p>16 your understanding of their strategy?</p> <p>17 A. The same.</p> <p>18 Q. When you used the term "Madoff feeder</p> <p>19 fund," what do you mean by that?</p> <p>20 A. The fund managed by Ezra Merkin that</p> <p>21 gave Bernard Madoff and his firm trading discretion</p> <p>22 when opportunities within certain guidelines were</p> <p>23 met.</p> <p>24 Q. What was your understanding as to the</p> <p>25 amount of Ascot's allocation to BLMIS?</p>	<p>1 more managed or discretion of the trades -- more and</p> <p>2 more of the assets more frequently were invested</p> <p>3 with Bernard Madoff.</p> <p>4 Q. When did Spring Mountain Capital</p> <p>5 first invest with Ascot?</p> <p>6 A. Prior to me joining. I don't know</p> <p>7 the exact dates.</p> <p>8 Q. Were the investments with Ariel and</p> <p>9 Gabriel also prior to your start with Spring</p> <p>10 Mountain Capital?</p> <p>11 A. They were.</p> <p>12 Q. Do you know whether or not Spring</p> <p>13 Mountain Capital conducted any due diligence on</p> <p>14 Mr. Merkin's funds prior to their investments?</p> <p>15 MS. PRINC: Object to form.</p> <p>16 MR. KREISSMAN: Object to form.</p> <p>17 A. I believe they conducted due</p> <p>18 diligence for both -- with both of those</p> <p>19 investments.</p> <p>20 Q. And what's the basis of your</p> <p>21 knowledge?</p> <p>22 A. The discussions with our -- other</p> <p>23 members of the investment committee who suggested</p> <p>24 that they did.</p> <p>25 Q. Were there any due diligence files</p>
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<p>1 MR. KREISSMAN: Objection, form.</p> <p>2 A. I had understood that over time it</p> <p>3 became virtually all of the -- the trading was done</p> <p>4 at BLMIS. When it was not traded, the assets were</p> <p>5 held at -- within Ezra -- under Ezra's control.</p> <p>6 MR. KREISSMAN: Are you asking that</p> <p>7 question or -- that's why I objected because the</p> <p>8 word allocation, I didn't know what you meant,</p> <p>9 allocated as a percentage of what.</p> <p>10 MR. SONG: I did mean the amount of</p> <p>11 funds under Ascot's control being traded at BLMIS.</p> <p>12 MR. KREISSMAN: Okay.</p> <p>13 Q. So, thank you for your answer.</p> <p>14 You testified that you understood</p> <p>15 that over time it became virtually all the trading</p> <p>16 was done at BLMIS. When did that -- when did it</p> <p>17 become virtually all at BLMIS?</p> <p>18 MR. KREISSMAN: Object to form.</p> <p>19 A. I'm not sure when it became all, but</p> <p>20 in my diligence meeting with Mr. Merkin it was</p> <p>21 suggested that he would do -- he would attempt to</p> <p>22 execute a similar strategy on his own and was not,</p> <p>23 as time evolved he was not able to achieve the</p> <p>24 results that Bernard Madoff and his firm were able</p> <p>25 to achieve, so over time the fund became more and</p>	<p>1 related to Mr. Merkin's funds when you started at</p> <p>2 Spring Mountain Capital?</p> <p>3 MR. KREISSMAN: Object to form,</p> <p>4 vague.</p> <p>5 A. I don't recall seeing any.</p> <p>6 Q. Did you conduct ongoing due diligence</p> <p>7 on Ascot, Ariel or Gabriel?</p> <p>8 A. Eventually, yes.</p> <p>9 Q. When?</p> <p>10 A. Can't -- I don't remember the exact</p> <p>11 dates, but as the Aozora relationship evolved I</p> <p>12 became more active in that diligence process.</p> <p>13 Q. Do you know Michael Autera?</p> <p>14 A. Yes.</p> <p>15 Q. Who is Mr. Autera?</p> <p>16 A. He's the chief financial officer of</p> <p>17 Gabriel Capital.</p> <p>18 Q. When did you first meet him?</p> <p>19 A. I interacted with him regularly while</p> <p>20 at Rutherford Asset Management and probably never</p> <p>21 actually met him until I joined Spring Mountain</p> <p>22 Capital.</p> <p>23 Q. And why were you interacting with</p> <p>24 Mr. Autera while you were at Rutherford Asset</p> <p>25 Management?</p>